

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIAN J. ALEXANDER,

Plaintiff,

v.

MUNGUIA, et al.,

Defendants.

No. 2:21-cv-01390-KJM-CKD

ORDER

Plaintiff is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case is proceeding on an Eighth Amendment excessive force claim against defendants Munguia and Rodriguez and a First Amendment retaliation claim against defendant Britton as alleged in plaintiff's second amended complaint. See ECF Nos. 14 (amended complaint), 15 (screening order).

Currently pending before the court is plaintiff's motion to compel discovery from defendants. ECF No. 37. Defendants have filed an opposition, and plaintiff has filed a reply. ECF Nos. 40, 43. Therefore, the motion has been fully briefed. For the reasons explained below, the court will deny plaintiff's motion to compel.

I. Motion to Compel

In his motion to compel, plaintiff indicates that he has not received defendants' responses to his requests for production of documents which were due by February 7, 2023. ECF No. 37;

1 see also ECF No. 36 (order granting defendants' motion for an extension of time to respond).
2 Plaintiff attached a copy of his discovery requests to the motion to compel. ECF No. 37 at 12-16.
3 Based on their failure to file a timely response, plaintiff requests that defendants be deemed to
4 have waived any objections to his requests for production of documents.

5 In their opposition, defendants submit that they "served their responses to Plaintiff's first
6 set of requests for the production of documents on February 7, 2023, along with documents bates
7 stamped AGO-0001 to AGO-0273 and two video files saved to DVD." ECF No. 40 at 1-2.
8 Defendants attached a proof of service for their responses indicating that the materials were
9 mailed to plaintiff at Corcoran State Prison. ECF No. 40 at 25-26.

10 On March 29, 2023, plaintiff filed a reply that does not address defendants' averment that
11 the discovery responses were timely served. ECF No. 43. Instead, plaintiff indicates that his
12 requests were "appropriate and within the scope of discoverable information and materials." ECF
13 No. 43 at 2.

14 **II. Legal Standards**

15 The Federal Rules of Civil Procedure permit discovery of "any nonprivileged matter that
16 is relevant to any party's claim or defense and proportional to the needs of the case, considering
17 the importance of the issues at stake in the action, the amount in controversy, the parties' relative
18 access to relevant information, the parties' resources, the importance of the discovery in resolving
19 the issues, and whether the burden or expense of the proposed discovery outweighs its likely
20 benefit." Fed. R. Civ. P. 26(b)(1). The court must limit discovery if it is "unreasonably
21 cumulative or duplicative, or can be obtained from some other source that is more convenient,
22 less burdensome, or less expensive;" or if the party who seeks discovery "has had ample
23 opportunity to obtain the information by discovery;" or if "the proposed discovery is outside the
24 scope permitted by Rule 26(b)(1)." Fed. R. Civ. P. 26(b)(2)(C). In a motion to compel, the
25 moving party bears the burden of showing why the other party's responses are inadequate or their
26 objections unjustified. See Williams v. Cate, 2011 WL 6217378 at *1 (E.D. Cal. Dec.14, 2011),
27 citing Ellis v. Cambra, 2008 WL 860523 at *4 (E.D. Cal. Mar.27, 2008).

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III. Analysis

In this case, plaintiff's motion was based entirely on defendants' purported lack of response to his request for production of documents. After reviewing defendants' proof of service attached to their opposition along with plaintiff's pending partial motion for summary judgment¹, it is clear to the court that plaintiff received defendants' responses to his request for production of documents. Plaintiff has not indicated how defendants' responses are inadequate or their objections not justified. Therefore, plaintiff has not met his burden of demonstrating that a motion to compel is warranted in this case.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel (ECF No. 37) is denied.

Dated: May 11, 2023


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff attached many of the documents he received from defendants in discovery to his motion for summary judgment. See ECF No. 39 at 27-79 (Bate stamped documents).